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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,426	06/24/2003	Phillip Clark	MCA-640	9664
25182	7590	12/16/2005	EXAMINER	
MILLIPORE CORPORATION 290 CONCORD ROAD BILLERICA, MA 01821			HANDY, DWAYNE K	
			ART UNIT	PAPER NUMBER
			1743	
DATE MAILED: 12/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,426

Applicant(s)

CLARK ET AL.

Examiner

Dwayne K. Handy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/22/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 recites a unitary seal. This feature appears to not be shown in the disclosure. Therefore, it is unclear to the Examiner as to what structure is required to meet this limitation.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5-8 and 11-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Moring et al. (6,159,368). Moring teaches a multiwell microfiltration apparatus for filtering samples. The device is best shown in Figures 3 and 4 and

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described in columns 12-14. The device of Moring has a first sample processing device (filter plate #10), a second processing device (receiving plate #24) stacked below the first processing device, a collar (38), a base (51) having a vacuum port (51), a first seal (gasket #44) between the collar and base, and a second seal (gasket #42) between the first sample processing device and the collar. The Examiner considers a deformable gasket (col. 14, lines 28-30) as allowing for variability in the height of the processing devices since it may be deformed.

5. Claims 1-3, 5-8 and 11-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Stanchfield et al. (6,054,100). Stanchfield teaches a multiwell microfiltration apparatus for filtering samples. The device is best shown in Figures 12 and 13 and described in columns 12-14. The device of Stanchfield has a first sample processing device (well block #12), a second processing device (collection plate #123) stacked below the first processing device, a collar (104), a base (102) having a vacuum port (120), a first seal (gasket #106) between the collar and base, and a second seal (gasket #108) between the first sample processing device and the collar. The Examiner considers the use of a gasket between elements of the device as an element that allows for variability in the height of the processing devices since it may be deformed.

6. Claims 1-3, 5-9 and 11-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Bloecker et al. (6,592,826). Bloecker teaches a multiwell microfiltration apparatus for filtering samples. The device is best shown in Figures 2, 4, 7 and 8 and

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described in columns 7-8. The device of Bloecker has a first sample processing device (upper support #F1), a second processing device (lower support #F2) stacked below the first processing device, a collar (cover #30), a base (#1) having vacuum ports (7,8), a first seal (gasket #16) between the collar and base, and a second seal (gasket #44) between the first sample processing device and the collar. The Examiner considers the use of a gasket between elements of the device as an element that allows for variability in the height of the processing devices since it may be deformed.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 4 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloecker et al. (6,592,826) or Stanchfield et al. (6,054,100) or Moring et al. (6,159,368)

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in view of Vestal (5,498,545). Bloecker or Stanchfield or Moring, as described above teach every element of claims 4 and 22 except for a MALDI device as the second device. Vestal teaches a mass spectrometer system for analyzing multiple samples. The system includes a sample plate (10A) for holding the samples on pins in the wells of the plate. The samples are loaded into the plate and then analyzed. It would have been obvious to combine the plate of Vestal with the device of Bloecker or Stanchfield or Moring. One would use the plate of Vestal as the collection plate in order to load the collection plate for MALDI analysis of the samples.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Aysta et al. (5,464,541), Bankier et al. (5,846,493) and Kopaciewicz et al. (6,869,572) show additional examples of filtration devices comprised of stackable parts.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne K. Handy whose telephone number is (571)-272-1259. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DKH
December 10, 2005


Jill Warden
Supervisory Patent Examiner
Technology Center 1700